

EXHIBIT 1

INTRODUCTION

Respondent David Boul is a businessman who currently resides in Moreno Valley, California. During a special election held in the City of Ontario on June 8, 1999, Respondent qualified as an independent expenditure committee. As an independent expenditure committee, Respondent had a duty to file campaign statements disclosing any independent expenditure that he made during the June 8, 1999 special election. In this matter, Respondent failed to disclose a late independent expenditure in a properly filed late independent expenditure report, failed to file a post-election semi-annual campaign statement, and failed to file a post-election supplemental independent expenditure report.

For purposes of this Default, Decision and Order, Respondent's violations of the Political Reform Act (the "Act")¹ are as follows:

- COUNT 1:** Respondent David Boul failed to disclose the making of a \$2,794 late independent expenditure in opposition to Ontario City Council candidate Debbie Acker on a properly filed late independent expenditure report, by the June 2, 1999 due date, in violation of section 84204.
- COUNT 2:** Respondent David Boul failed to file a semi-annual campaign statement by July 31, 1999, for the reporting period January 1, 1999 through June 30, 1999, in violation of section 84200, subdivision (b).
- COUNT 3:** Respondent David Boul failed to file a supplemental independent expenditure report by July 31, 1999, for the reporting period January 1, 1999 through June 30, 1999, in violation of section 84203.5.

PROCEDURAL HISTORY

On January 2, 2004, the Enforcement Division initiated an enforcement action against Respondent David Boul by serving him at his personal residence with a Report in Support of a Finding of Probable Cause ("probable cause report") by certified mail with return receipt requested. Respondent did not sign the return receipt and the envelope containing the probable cause report was returned to this office unclaimed. Pursuant to section 83115.5, Respondent is deemed to have been served with the probable cause report on the date this office received the unclaimed envelope. Along with the probable cause report, Respondent was also served with an information packet informing Respondent that he had 21 days in which to request a probable cause conference, and to file a written response to the probable cause report.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Respondent did not request a probable cause conference, or file a written response to the probable cause report. On January 30, 2004, the Enforcement Division filed an Ex Parte Request for a Finding of Probable Cause and an Order That an Accusation Be Prepared and Served, and sent a copy to Respondent at his personal residence. On February 4, 2004, Executive Director Mark Krausse issued an Order Finding Probable Cause as to the three counts alleged in the probable cause report. A copy of the order was sent to Respondent at his personal residence on February 5, 2004.

Pursuant to the California Administrative Procedure Act (the “APA”),² a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that the respondent’s failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subdivision (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation. (Section 11520, subdivision (a).)

The Accusation in this matter was served on Respondent David Boul, on October 15, 2004, by substitute personal service on his spouse, Deanne Boul, at Respondent’s personal residence. The proofs of service are attached hereto as Exhibits “A” and “B”. Along with the Accusation, the Enforcement Division served Respondent with a “Statement to Respondent,” which notified Respondent that he could request a hearing on the merits and warned Respondent that, unless a Notice of Defense was sent within 15 days of service of the Accusation, Respondent would be deemed to have waived his right to a hearing. More than 15 days have now elapsed and Respondent has not filed a Notice of Defense.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and so that improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (b) defines a “committee” as including any person or combination of persons who makes independent expenditures totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as an “independent expenditure” committee.

Section 82031 defines an “independent expenditure” as including an expenditure made by any person in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate but which is not made to or at the behest of the affected candidate or committee.

² The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

Section 84200, subdivision (b) requires an independent expenditure committee to file a semi-annual campaign statement each year, no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if the committee has made independent expenditures during the six-month period before the closing date of the statement.

Section 84203.5 provides that, in addition to any other campaign statement required by the Act, if a candidate or committee makes independent expenditures totaling \$500 or more³ in a calendar year to support or oppose a candidate, it shall file “supplemental” independent expenditure reports at the same time, covering the same periods, and in the places where the candidate or committee would be required to file campaign statements, as if it were formed or existed primarily to support or oppose the candidate.

Under section 84204, subdivision (a), when a committee makes a late independent expenditure, the committee must file a late independent expenditure report disclosing the expenditure within 24 hours of making expenditure. Section 82036.5 defines a “late independent expenditure” as an independent expenditure of \$1,000 or more that is made for or against any specific candidate or measure involved in an election before the date of the election, but after the closing date of the last campaign statement required to be filed prior to the election, by a candidate or committee participating in such election.

Under section 84200.8, for elections that are not held in June or November of an even-numbered year, the late independent expenditure reporting period covers the last 16 days of the election.

SUMMARY OF THE FACTS

Debbie Acker was a candidate for the Ontario City Council during the June 8, 1999 special election. On June 1, 1999, Ontario businessman David Boul paid \$2,794 to Crowshaw Printing & Direct Mail, Inc. to assist him in the design, production, and distribution of a mass mailing, which was mailed to approximately 10,000 households in Ontario. The mass mailing expressly urged the recipient to vote against Debbie Acker for Ontario City Council, and accused Debbie Acker of running “a deceptive campaign.” Having made an independent expenditure of \$1,000 or more to oppose a candidate for the Ontario City Council, Respondent David Boul qualified as an independent expenditure committee.

COUNT 1

Failure to Disclose Late Independent Expenditure

As an independent expenditure committee, Respondent had an obligation to disclose the making of a late independent expenditure within 24 hours on a properly filed late independent expenditure report. The late independent expenditure reporting period for the June 8, 1999 special election was May 23, 1999 through June 7, 1999. On June 1, 1999, Respondent made a late independent expenditure of \$2,794 in opposition to Ontario City Council candidate Debbie

³ Section 84203.5 was amended in 2000 to raise the \$500 threshold amount to \$1,000. Since the violations in this case occurred prior to the effective date of that amendment, the \$500 threshold amount is applicable.

Acker. Respondent, however, failed to disclose the late independent expenditure on a properly filed late independent expenditure report by the June 2, 1999 due date.

By failing to disclose a \$2,794 late independent expenditure on a properly filed late independent expenditure report, Respondent David Boul violated section 84204.

COUNT 2

Failure to File Post-election Semi-annual Campaign Statement

As an independent expenditure committee, Respondent had a duty to file a semi-annual campaign statement for any semi-annual reporting period in which Respondent made an independent expenditure. On June 1, 1999, Respondent made an independent expenditure of \$2,794 in opposition to Ontario City Council candidate Debbie Acker. However, Respondent failed to file a semi-annual campaign statement for the reporting period January 1, 1999 through June 30, 1999, by the July 31, 1999 due date.

By failing to file a semi-annual campaign statement by July 31, 1999, Respondent violated section 84200, subdivision (b).

COUNT 3

Failure to File Supplemental Independent Expenditure Report

As an independent expenditure committee, Respondent had a duty to file a supplemental independent expenditure report for any reporting period in which Respondent made an independent expenditure of \$500 or more. On June 1, 1999, Respondent made an independent expenditure of \$2,794 in opposition to Ontario City Council candidate Debbie Acker. However, Respondent failed to file a supplemental independent expenditure report for the reporting period January 1, 1999 through June 30, 1999, by the July 31, 1999 due date.

By failing to timely file a supplemental independent expenditure report by July 31, 1999, Respondent violated section 84203.5.

CONCLUSION

This matter consists of three counts, which carry a maximum possible administrative penalty of Six Thousand Dollars (\$6,000).

Regarding Count 1, the typical penalty for the failure to disclose a late independent expenditure for violations occurring prior to January 1, 2001 has historically ranged from \$1,000 to \$2,000, depending upon the circumstances of the violation. In this matter, although the amount of the undisclosed late independent expenditure is not a significant amount, the expenditure did not appear on any campaign statement prior to or after the election. Under these circumstances, imposition of a penalty in the middle of the penalty range, in the amount of \$1,500, is appropriate.

Regarding Count 2, the typical penalty for the failure to file a post-election semi-annual campaign statement for violations occurring prior to January 1, 2001 has historically ranged from \$1,000 to \$1,500, depending upon the circumstances of the violation. In this matter, although the amount of the undisclosed late independent expenditure is not a significant amount, the expenditure did not appear on any campaign statement prior to or after the election. Therefore, imposition of a penalty at the upper end of the penalty range, in the amount of \$1,500, is appropriate.

Regarding Count 3, the typical penalty for the failure to file a post-election supplemental independent expenditure report for violations occurring prior to January 1, 2001 has ranged from \$1,000 to \$1,500, depending upon the circumstances of the violation. Here, as the amount of financial activity during the reporting period is not a significant amount, imposition of a penalty at the low end of the penalty range, in the amount of \$1,000, is appropriate.

Accordingly, the facts of this case justify the imposition of an administrative penalty of Four Thousand Dollars (\$4,000).